

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

THOMAS H. WENDT,

Petitioner,

v.

CASE NO. 05-CV-60135-AA  
HON. JOHN CORBETT O'MEARA

STATE OF MICHIGAN,

Respondent.

---

**ORDER OF DISMISSAL**

On June 14, 2005, petitioner Thomas H. Wendt initiated this action by filing a motion for relief from judgment, using a state court form. The motion challenged Petitioner's state court convictions for first-degree murder and felony firearm. Because it appeared to the Court that Petitioner intended to file a habeas corpus petition under 28 U.S.C. § 2254, the Court ordered Petitioner on July 13, 2005, to re-submit his pleading on a form approved by the judges in this District. The Court sent Petitioner a copy of the approved form and directed him to complete and return his habeas petition within twenty-one days of the Court's order.

To date, Petitioner has not responded to the Court's order. He has not submitted a habeas corpus petition on the proper form, nor moved for an extension of time to do so. Accordingly, this action is DISMISSED without prejudice for failure to prosecute and for failure to comply with the Court's previous order by submitting either the standard habeas corpus form or the form used in this Court. Fed. R. Civ. P. 41(b); Local Rule 41.2 (E.D. Mich. Mar. 2, 1998); Rule 2(d) of the Rules Governing Section 2254 Cases in the United States District Courts.

Petitioner's application for a court-appointed attorney [Doc. #3, June 14, 2005] is DENIED as

moot.

s/John Corbett O'Meara  
John Corbett O'Meara  
United States District Judge

Dated: September 20, 2005